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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,326	01/14/2005	Richard Chene	22193-00011-US1	1473
42441 7590 06/28/2007 CONNOLLY BOVE LODGE & HUTZ LLP (FOR CABINET BEAU DE LOMENIE) P.O. BOX 2207 WILMINGTON, DE 19899-2207			EXAMINER BRITTAIN, JAMES R	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 06/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,326

Applicant(s)

CHENE ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ----
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Restart

In response to a telephone communication received June 22, 2006 in which it was pointed out that claim 16, though referred to in the last two lines of the office action mailed May 17, 2006 was not referred to in the statement of the rejection in the middle paragraph and claim 15 was only referred to in the rejections under 35 U.S.C. 112, I agreed to restart the period for response and supplement the prior communication to correct the middle paragraph on page 3 along with adding a formal indication that claim 15 would be allowable if amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. As this communication supplements the prior office action, lists of references considered, priority acknowledgements and acceptance of drawings will not be repeated here.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The passage "and being is formed" (claim 1, line 10) is incomplete and therefore indefinite. The passage "while, at least when the collar is in a tightened state, ...collar" (claim 9, last four lines) renders the scope of the claim unclear because it is not particularly pointed out if the spacer actually has a change of length only when in the tightened state. The passage is

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unclear as to what limitation is place on the finished product. The remaining claims are indefinite in that they depend from an indefinite claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calmettes et al. (US 4834431) in view of JP 8-61315.

Calmettes et al. (figures 1-3) teaches clamping collar structure comprising a V-shaped band with housings 2a incorporated into the bearing tabs 2. The bolt head 3 has the same shape as the abutment spacer 5 (col. 3, lines 20-35) and such a configuration prevents rotation of the bolt head and spacer through its cooperation with the housings 2a and V-shaped band. The difference is that the spacer isn't formed by a rolled-up blank. However, the use of a rolled-up blank for the spacer is conventional as shown by JP 8-61315 (figures 1-5) which teaches the use of a rolled-up spacer 13 as providing sufficient strength between the bold head and bearing tab in the environment of a clamping collar. It would have been obvious to modify the clamping collar of Calmettes et al. so that the spacer is a rolled-up blank in view of JP 8-61315 teaching such structure to be a conventional expedient with a simply devised and shaped configuration.

Claims 9, 13 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calmettes et al. (US 4834431) in view of Watts (US 3181901).

Calmettes et al. (figures 1-3) teaches clamping collar structure comprising a V-shaped band with housings 2a incorporated into the bearing tabs 2. The bolt head 3 has the same shape as the abutment spacer 5 (col. 3, lines 20-35) and such a configuration prevents rotation of the bolt head and spacer through its cooperation with the housings 2a and V-shaped band. The difference is that the spacer doesn't increase in length away from the collar. However, Watts teaches the use of a spacer 48 with a curved edge 56 that extends the length of the spacer away from the collar so as to provide a better engagement with the bearing tab. Therefore, it would have been obvious to modify the clamping collar of Calmettes et al. so that the spacer increases in length away from the collar in view of Watts teaching that it is desirable to have such structure on a spacer. As to claim 13 all materials are elastic to some degree and the spacer of Calmettes et al. is elastically deformable to a very small extent.

Claims 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calmettes et al. (US 4834431) in view of Watts (US 3181901), as applied to claims 9 and 13 above, and further in view of JP 8-61315.

Further modification of the clamping collar of Calmettes et al. such that the spacer is a rolled-up blank would have been obvious in view of JP 8-61315 (figures 1-5) teaching the use of a rolled-up spacer 13 as providing sufficient strength between the bolt head and bearing tab in the environment of a clamping collar via a conventional expedient with a simply devised and shaped configuration.

Allowable Subject Matter

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Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Brittain/
Primary Examiner
Art Unit 3677

JRB